

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

In re: HERMALINDA PENA REYNA,	§	
	§	
	§	Misc. No. 07-64
	§	

ORDER

Pending in this Court is Plaintiff Hermalinda Pena Reyna's application to proceed in forma pauperis. (D.E. 4.) On July 12, 2007, Magistrate Judge Brian Owsley held a hearing on Plaintiff's application. At the hearing, Plaintiff indicated that she wished to sue, among others, Rose Hill Cemetery and STK Auto Sales for breach of contract as well as for various allegedly-abusive and harassing conduct.

The Court may only hear Plaintiff's claims against Rose Hill Cemetery and STK Auto Sales if the Court has diversity jurisdiction over the case. Diversity jurisdiction exists when both: (1) the Plaintiff and Defendants are citizens of different states, and (2) the amount in controversy exceeds \$75,000.00. 28 U.S.C. § 1332(a). *Pro se* litigants, such as Plaintiff, are still obligated to properly allege diversity and invoke the jurisdiction of the court. See Patterson v. Patterson, 808 F.2d 357, 357-58 (5th Cir. 1986), Penigar v. Bell Helicopter Textron, 31 Fed.Appx. 160, 2001 WL 1751492 at *1 (5th Cir. Dec. 28, 2001) (unpublished). Plaintiff did not allege diversity jurisdiction in any of her documents filed with the Court, nor did the Magistrate make specific inquiries into the existence of diversity jurisdiction at the hearing. Courts, however, may give a Plaintiff (especially a *pro se* Plaintiff) an

opportunity to amend to properly allege jurisdiction. See Patterson, 808 F.2d at 358; see also 28 U.S.C.A. § 1653 ("Defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate courts"). Accordingly, it is HEREBY ORDERED that Plaintiff Hermalinda Pena Reyna shall file with the Court, no later than August 10, 2007, a pleading indicating:

1. The citizenship of "Rose Hill Cemetery" and the amount which Plaintiff is seeking from that defendant; and
2. The citizenship of "STK Auto Sales" and the amount which Plaintiff is seeking from that defendant.

Plaintiff's failure to file a pleading with the Court may result in her case being dismissed for lack of jurisdiction.

SIGNED and ENTERED this 27th day of July, 2007.

A handwritten signature in black ink, reading "Janis Graham Jack", is positioned above a horizontal line.

Janis Graham Jack
United States District Judge